

CHAPTER 303

Protection of Children Act

Title. **1.** This Act may be cited as the *Protection of Children Act*. R.S. 1948, c. 47, s. 1.

Interpretation

Interpre-
tation.

- 2.** In this Act, unless the context otherwise requires,
- “children’s aid society” or “society” includes any children’s aid society that has been duly incorporated before the enactment of this Act, and also any organized society that has been approved by the Lieutenant-Governor in Council, and that has among its objects the protection of children from cruelty, the safeguarding of the young, the amelioration of family conditions that lead to neglect of children, or the care and control of children in need of protection;
 - “clerk of a local authority,” when used in reference to any area other than a municipality, means the Director of Welfare;
 - “foster home” means a private home approved by the Superintendent or by a children’s aid society for the purpose of placement of a child therein, irrespective of whether payment is made to the home for maintenance of the child or not;
 - “Judge” includes any Judge of the Supreme Court, any Judge of a County Court, any Stipendiary or Police Magistrate, any Judge of a Juvenile Court, any two Justices of the Peace acting together at a place where no Juvenile Court has been established or has jurisdiction, and if any one Justice of the Peace is requested by the Minister to act in any specified case, shall include that Justice;
 - “local area” or “area” means the area comprised in any municipality and the area comprised in the unorganized territory of the Province;
 - “local authority” or “authority,” in respect of a person who is a resident in a municipality, means the corporation of that municipality; and, in respect of a person who is a resident in unorganized territory, means the Crown in right of the Province;
 - “Minister” means the member of the Executive Council appointed from time to time by the Lieutenant-Governor in Council to have charge of the administration of this Act;
 - “municipality” means, in accordance with the context, the area incorporated as a city, town, district, township, village, or local district municipality under any special or general Act or the corporation into which the residents of the area have been incorporated as a municipality;

“needing protection” or “in need of protection,” when used with reference to children, includes every act or condition of neglect, deficiency, or delinquency within the meaning of any of the classes or descriptions set out in section 7;

“officer” means any person specially appointed by any children’s aid society to enforce this Act;

“parent,” when used in relation to a child, includes guardian;

“Probation Officer” means a Probation Officer for juvenile delinquents appointed under chapter 46 of the Statutes of Canada for the year 1929, being *The Juvenile Delinquents Act, 1929*, or under any Act of the Legislature;

“street” includes any highway or public place, whether a thoroughfare or not;

“Superintendent” means the Superintendent of Child Welfare appointed under this Act. R.S. 1948, c. 47, s. 2; 1958, c. 9, s. 2.

Nursing Homes

Restrictions
on nursing
homes caring
for infants.

3. No person shall retain or receive for hire or reward more than one infant, and, in case of twins, more than two infants, under the age of one year, for the purpose of nursing or maintaining such infants apart from their parents for a longer period than twenty-four hours, except under this Act or the *Welfare Institutions Licensing Act*. R.S. 1948, c. 47, s. 3.

Appointment and Duties of Superintendent

Superinten-
dent of Child
Welfare.

4. (1) An officer, to be called the “Superintendent of Child Welfare,” may be appointed under the *Civil Service Act*. He shall hold office during pleasure.

Powers of
Superin-
tendent.

(2) The Superintendent has and may exercise all the powers conferred upon a children’s aid society under this Act, and he may from time to time appoint such persons to act for him in the performance of any of his duties under this Act as occasion may require. R.S. 1948, c. 47, s. 4.

Duties of
Superin-
tendent.

5. The Superintendent shall see that the provisions of this Act are carried out, and that all the returns called for by this Act are made, and the Superintendent shall make a written report thereof monthly to the Minister, setting forth where the order for the committal of any child was made, when made, and giving the name, date of birth, and religion of the child. R.S. 1948, c. 47, s. 5.

Further
duties of
Superin-
tendent.

6. It is the duty of the Superintendent

(a) to encourage and assist in the establishment of children’s aid societies when deemed advisable;

(b) to advise such societies and instruct them as to the manner in which their duties are to be performed;

- (c) to see that a record is kept by each society of all committals to it and of all children placed by it in foster homes under this Act and of such other particulars as may be deemed desirable;
 - (d) to direct and supervise the visiting of any place where a child is placed under the provisions of this Act;
 - (e) to prepare and submit an annual report to the Minister;
 - (f) to perform such other duties as may be prescribed by any Act of the Legislature or by the Lieutenant-Governor in Council.
- R.S. 1948, c. 47, s. 6.

Apprehension of Children in Need of Protection

Persons
authorized to
apprehend
children.

7. The Superintendent and every person who is authorized in writing by the Superintendent, every constable or officer of the Provincial police or of any municipal police, and every Probation Officer, may apprehend, without warrant, and bring before a Judge, as needing protection, any child apparently under the age of eighteen years who is within any of the following classes or descriptions:—

Types of
children
who may be
apprehended.

- (a) Who is found begging in any street, house, or place of public resort, whether actually begging or under pretext of selling or offering anything for sale:
- (b) Who is found sleeping at night in other than proper housing accommodation and without proper adult supervision:
- (c) Who is found associating or dwelling with a thief, drunkard, or vagrant, or who, by reason of neglect or drunkenness or other vices of the parents or guardians, is suffered to grow up without salutary parental control and education, or in circumstances exposing such child to an idle or dissolute life:
- (d) Who is found in any disorderly house, or in company of people reputed to be criminal, immoral, or disorderly:
- (e) Who is an orphan without adequate protection for his upbringing:
- (f) Who has been deserted by his parents:
- (g) Who is found guilty of petty crimes, and who is likely to develop criminal tendencies if not removed from his surroundings:
- (h) Who is found wandering about at late hours and not having any home or settled place of abode or proper guardianship:
- (i) Who is, whether residing with his parents or not, incorrigible or who cannot be controlled by his parents:
- (j) Whose only parent or whose parents are undergoing imprisonment:
- (k) Whose home by reason of neglect, cruelty, or depravity is an unfit place for the child, or who has no proper guardianship, or who has no parent capable of exercising proper parental control:

- (l) Who is subject to such blindness, deafness, feeble-mindedness, or physical disability as is likely to make him a charge upon the public, or who is exposed to infection from tuberculosis or from any venereal disease where proper precautions to prevent infection are not taken, or who is suffering from such a lack of medical or surgical care as is likely to interfere with his normal development:
- (m) Who, by reason of the action of his parents or otherwise, is habitually truant from school and is liable to grow up without proper education:
- (n) Who is neglected so as to be in a state of habitual vagrancy or mendicancy:
- (o) Who is ill-treated so as to be in peril in respect of life, health, or morality by continued personal injury, or by grave misconduct or habitual intemperance of the parents. R.S. 1948, c. 47, s. 7.

Interval between apprehension and examination.
Investigation and witnesses.

8. (1) Any child apprehended under section 7 shall, within seven days, be brought before a Judge for examination.

(2) It is thereupon the duty of the Judge to investigate the facts of the case and ascertain whether the child is in need of protection, and the Judge has the power to compel the attendance of witnesses.

Notification of examination.

(3) It is the duty of the person who apprehends the child to notify the following persons of the time and place of the examination:—

- (a) The parents or person having the actual custody of the child, if known; and
- (b) The Superintendent; and
- (c) The clerk of any local authority sought to be made liable for any payment under section 32 in respect of the child.

The notification shall be given at least five clear days before the time fixed for the examination.

Custody of child during adjournment.

(4) The Judge may adjourn the case from time to time at his discretion and, pending the final disposition of the case, the child may, with the approval of the Judge, be either retained in the custody of the parent or guardian, or of the person who apprehended the child, or kept in some suitable place designated by the Judge. Any adjournment under this subsection may, notwithstanding the provisions of any other Act, be for such length of time as the Judge thinks proper.

Responsibility of person apprehending child.

(5) Subject to subsection (4), from the time that a child is apprehended under section 7 until final disposition of the case by the Judge, the person who apprehends the child is responsible for the care, maintenance, and physical well-being of the child, and no liability shall attach either to such person or to any duly qualified physician or surgeon by reason only that the child is provided with necessary medical or surgical care during such time.

Power of
Judge to
make orders.

(6) If the Judge finds that the child is in need of protection, he shall set out such findings in an order in that behalf, and shall also include one of the following provisions in the order:—

- (a) That the case be adjourned sine die and that the child be returned to his parent or other person having actual custody at the time of apprehension, subject to inspection and supervision by a children's aid society or by the Superintendent; or
- (b) That the child be delivered into the safe custody and control of his parents, subject to such regulations as the circumstances render just; or
- (c) That the child be committed to the care and custody of a children's aid society or of the Superintendent.

Right of
society to
supervise and
to return case
to Court for
further dis-
position.

(7) Where the Judge has ordered that a child be returned to his parents, or other person having the actual custody of the child at the time of apprehension, under clause (a) of subsection (6), the child shall be under the inspection and supervision of the children's aid society named by the Judge in his order or of the Superintendent, as the Judge may direct; and the society or the Superintendent, as the case may be, may at any time on giving the like notification as is prescribed by subsection (3) bring the case again before the Judge for further consideration under this section, and the Judge may make any order that is authorized by this Act.

Authority to
receive child.

(8) Upon commitment of the child to a children's aid society or to the Superintendent under this section, the society or the Superintendent is authorized to take the child into custody for placement under this Act.

Facts to be
stated in
order of
Judge.

(9) In any order made under subsection (6) the Judge shall set out, in addition to his findings, a statement of the facts, so far as ascertained, as to the date of birth of the child, its name, nationality, and religion, the place of abode and occupation of the parents or either of them, or whether either of them is dead or has abandoned the child, and in the case of the examination of two or more children of the same family at the same time, only one order need be made.

Provision
of copies of
order to
society or
Superin-
tendent.

(10) The Judge shall deliver to the Superintendent a certified copy of the order made in each case, and if the Judge in his order has committed the child to a children's aid society, or has returned the child to his parent under the supervision of a children's aid society, the Superintendent shall also cause to be delivered a certified copy of the order made in that case to the children's aid society.

Limits of
society's
jurisdiction.

(11) The Judge shall not commit a child to a children's aid society unless the child was apprehended within the boundaries of the area in which the society has jurisdiction.

Transfer of
child from
Superin-
tendent to
society.

(12) If the Judge commits a child to the Superintendent under this section, the Superintendent shall receive the child into his custody and is thereupon the legal guardian of the child, and he shall retain the guardianship unless and until he delivers the child to a children's aid

society. The Superintendent shall make arrangements as soon as may be for the placement of the child in a foster home, or such other place as will best meet the needs of the child. But the Superintendent may at any time, with the consent of a children's aid society, deliver the child to the society to be dealt with in like manner as if delivered to the society under the order of a Judge under the provisions of this section, and the Superintendent shall in such case deliver to the society a certified copy of the order of the Judge endorsed with a memorandum signed by the Superintendent, setting out the delivery of the child to the society under this section.

Transfer of child from society to Superintendent.

(13) If the Judge commits a child to a children's aid society under this section, the society shall receive the child into its custody and shall make arrangements as soon as may be for the placement of the child in a foster home. The society may at any time, with the consent of the Superintendent, deliver the child to the Superintendent to be dealt with in like manner as if delivered to the Superintendent under the order of a Judge under this section; and the society shall in such case deliver to the Superintendent a memorandum, signed by any authorized officer of the society, setting out the delivery of the child to the Superintendent under this section.

Limits on institutional care of children.

(14) No child shall be maintained by a society elsewhere than in a foster home for a period exceeding six months, except with the written consent of the Superintendent, who may at any time withdraw his consent; but if the Superintendent withholds his consent or withdraws his consent the society may appeal to the Minister and the Superintendent shall comply with the directions of the Minister.

Proceedings may be continued before another Judge.

(15) Where any proceedings authorized by this section have been commenced before or heard by a Judge who is subsequently unable to hear further proceedings in the same matter, such further proceedings may be continued before and heard by any other Judge having jurisdiction; and that other Judge, if he sees fit, may give directions with regard to the rehearing of evidence, and he shall have the same power as if the proceedings had been commenced before and heard throughout by him. R.S. 1948, c. 47, s. 8; 1949, c. 8, s. 2; 1957, c. 12, s. 2.

Petition for apprehension of child.

9. (1) Any person may file with the Superintendent a petition showing that there is at any place within the Province a child apparently under the age of eighteen years in need of protection, and praying that the child be apprehended and brought before a Judge to be dealt with as provided in this Act. The petition shall contain a statement of facts showing the child to be in need of protection within the meaning of this Act, together with a statement of the names and place of abode, if known to the petitioner, of the parents, guardian, or custodian of the child, and the petition shall be verified by a statutory declaration.

Duty of Superintendent on filing a petition.

(2) Upon the filing of the petition the Superintendent shall cause proper inquiries to be made and shall otherwise proceed in all respects

in like manner as provided in sections 7 and 8; and the provisions of these sections are applicable mutatis mutandis. R.S. 1948, c. 47, s. 9.

Care of Children Committed to a Society

Powers and
duties of
society as
guardian
of child.

10. (1) The society to the care of which any child is committed under this Act is the legal guardian of the child until it is relieved of that guardianship by order of the Judge or by the fact that the child has reached the age of twenty-one, or, if a female, is married; and it is the duty of the society to use special diligence in providing suitable foster homes for such children as are committed to its care, and the society is hereby authorized to place such children in foster homes on a written agreement, during minority, or for any less period in the discretion of the society. Notwithstanding any such contract the society has the right to withdraw the child from any person having the custody of the child if, in the opinion of the society placing out the child, the welfare of the child requires it.

Monthly
reports by
society.

(2) Every society to the care of which any child is committed under this Act shall each month send a report to the Superintendent, setting out

- (a) the full name, date of birth, nationality, and religion of each child so committed during the period covered by the report;
 - (b) the place where each order of committal was made and the date when it was made;
 - (c) if possible, the names and place of abode of the parents of each child referred to in the report;
 - (d) the disposition made by the society of every child during the period covered by the report, whether by way of adoption, placing in a foster home, or otherwise, and stating in each case the name, place of abode, occupation, and religion of the parents by adoption or foster-parents of every child so disposed of.
- R.S. 1948, c. 47, s. 10.

Return of
child on
application
of society
or Superin-
tendent.

11. (1) Where a child has been committed to a children's aid society or to the Superintendent, and the society or the Superintendent is satisfied that it would be for the benefit of the child that the order of committal should be rescinded, or that the child should be permitted to return either temporarily or permanently to its parents, an application may be made to a Judge for the order of committal to be rescinded or for the child to be returned to its parents; and the Judge, if satisfied that it would be for the benefit of the child, may rescind the order of committal or may, without rescinding the order of committal, grant permission for the child to be either temporarily or permanently returned to its parents under the supervision of the society or of the Superintendent.

Return of
child on
application
of parent.

(2) A Judge, if satisfied on complaint made by a parent of the child that it is for the benefit of the child that it should be either permanently or temporarily under the control of such parent, or that the guardianship

of the Superintendent or of the society should be terminated, may make an order accordingly, and any such order shall be complied with by the Superintendent or by the society; and if the order terminates the guardianship, the guardianship is thereby terminated as from the date of the order, and the Superintendent or the society ceases to have the rights and powers of the parent as respects the child. Five clear days' notice of a complaint under this subsection shall be given to the Superintendent. R.S. 1948, c. 47, s. 11.

Definition of maintenance by society.

12. (1) For the purposes of this Act, a child shall be deemed to be maintained by a society if it is wholly or partly maintained by it, either in any shelter or temporary home, or other institution conducted, selected, or approved by the society, or is boarded out under the provisions of this Act or any other Act in that behalf.

Responsibility of child and other persons for maintenance.

(2) Nothing in this Act shall relieve a child itself or any other person from any liability to contribute to the maintenance of the child, and the fact of such contribution being made shall not deprive any society of any of the powers and rights conferred on it by this Act. R.S. 1948, c. 47, s. 12.

Right of Court to refuse writ for production of child.

13. (1) Where application is made to any Court having jurisdiction in that behalf for a writ or order for the production of a child, and the Court finds that the parent or guardian has

- (a) abandoned or deserted the child; or
- (b) allowed the child to be brought up by another person at another person's expense, or by any children's aid society or other public or private institution, for such time and under such circumstances as to satisfy the Court that the parent or guardian was unmindful of his duties; or
- (c) has surrendered, by instrument in writing, the custody of the child to another person, or to a children's aid society or other public or private institution; or
- (d) otherwise so conducted himself that the Court should refuse to enforce his right to the custody of the child,

the Court may, in its discretion, decline to issue the writ, or make the order, unless satisfied that it would tend to the advantage and benefit of the child to do so.

Liability of parent on return of child.

(2) If at the time of the application for a writ or order for the production of the child the child is being brought up by another person, or is boarded out by a society duly authorized in that behalf, the Court may, in its discretion, if it orders the child to be given up to the parent or guardian, further order that the parent or guardian shall pay to such person or such society the whole of the costs properly incurred in bringing up the child, or such portion thereof as may seem to the Court to be just and reasonable, having regard to all the circumstances of the case. R.S. 1948, c. 47, s. 13; 1958, c. 9, s. 3.

Right of
Superin-
tendent and
others to
visit child.

14. Every society to whose care any child is committed under the provisions of this Act, and every person entrusted with the care of the child by any such society, shall from time to time permit the child to be visited, and any place where the child may be, or reside, to be inspected by the Superintendent or by any person authorized by the Superintendent for the purpose. R.S. 1948, c. 47, s. 14.

Right of
Superinten-
dent or other
persons to
demand
information
and to visit
premises of
society.

15. (1) Every organization that deals with or cares for children, that is to say, every children's aid society, charitable society, orphanage, children's or infants' home, or other home or institution to the care or custody of which children are in any manner committed or entrusted, or that undertakes or assumes in any manner the care or custody of children, shall, in addition to all other requirements of this Act, upon request of the Superintendent or of any person authorized by the Minister,

(a) furnish to the Superintendent or person so authorized full information and particulars concerning every child with whom the organization has dealt, or to whom the organization has given care, or of whom the organization has had the custody; and

(b) permit the Superintendent or person so authorized to have access to all parts of the premises and buildings of the organization (except any parts thereof used exclusively for religious or residential purposes by any member of a religious order therein), and to all children therein, and to all books and records of the organization.

Penalties
for non-
compliance.

(2) Every proprietor, manager, or person in charge of any such organization who in violation of subsection (1) neglects or refuses to comply with any request of the Superintendent or of any person so authorized by the Minister is liable, on summary conviction, to a fine not exceeding one hundred dollars.

Public in-
vestigation.

(3) If it appears to the Superintendent that the management of any organization referred to in subsection (1) is not such as to be in the best interests of the children in its care or custody, or that the organization, on grounds of the public interest, should be made the subject of public investigation, the Superintendent shall report the circumstances to the Minister, and the Minister may, under authority of an Order of the Lieutenant-Governor in Council, appoint Commissioners or a sole Commissioner to inquire into and report upon the management and conduct of the organization, including the methods followed by it in receiving and placing children, and may direct the lines or methods to be followed in the inquiry and the extent thereof; and sections 3 to 6 of the *Public Inquiries Act* apply, mutatis mutandis, to the Commissioners or Commissioner so appointed. R.S. 1948, c. 47, s. 15.

Right of
ministers
of religion
to visit

16. Subject to such rules as may be made by the Lieutenant-Governor in Council, all ministers of religion, or any person being duly

children in
homes and
shelters.

authorized by the recognized head of any religious denomination, shall have admission to every temporary home or shelter, and access to such of the children placed or detained therein, as belong to their respective denominations, and may give instruction to them in their respective religions on the days and at the times allotted by such regulations for the religious education of such children of their respective denominations. R.S. 1948, c. 47, s. 16.

Right
of other
persons
to visit.

17. Every Judge, Justice of the Peace, Mayor, Reeve, and every member of the Parliament of Canada or of the Legislative Assembly is entitled to visit and inspect every home, other than a foster home, and every school or shelter provided or used for children in need of protection, and shall at all times be admitted thereto for that purpose. R.S. 1948, c. 47, s. 17.

Discharge
of children
by Lieut.-
Governor
in Council.

18. The Lieutenant-Governor in Council may at any time discharge a child from the custody of the Superintendent or of any society to which it is committed under this Act, either absolutely or on such conditions as may be approved of; but before discharging any child the Lieutenant-Governor in Council shall procure a report in relation to the child from the Superintendent and also from any children's aid society to which the child may have been committed. R.S. 1948, c. 47, s. 18.

Power to
make rules to
be observed
by a society.

19. The Lieutenant-Governor in Council may from time to time make, alter, or revoke rules to be observed by every society and by the person in charge of every temporary home and shelter operating under the provisions of this Act. R.S. 1948, c. 47, s. 19.

Private ex-
amination.

20. The Judge shall exclude from the room or place where any examination, prosecution, or proceeding arising under the provisions of this Act is being held all persons other than the counsel, solicitor, and witnesses in the case, officers of the law or of any children's aid society, the Superintendent or his representatives, and the immediate friends or relatives of the child or parent concerning whom the examination, prosecution, or proceeding is being held. The Judge shall also exclude the child itself, except for the periods when it is necessary for the child to be present in order to be identified or in order to give evidence. R.S. 1948, c. 47, s. 20.

Incorporation of Children's Aid Societies

Application
for incorpo-
ration.

21. (1) Any ten or more persons, British subjects, and over the age of twenty-one years, and residents within the area in which it is proposed that the society shall have jurisdiction, who desire to associate themselves together for the purpose of protecting children from cruelty, ameliorating family conditions that lead to neglect of children, and caring for and protecting children in need of protection, may make an application to the Lieutenant-Governor in Council in the form in the Schedule for incorporation under this Act.

Boundaries
of society.

(2) The boundaries of the area in which the society proposes to operate shall be defined in the application, and if the application is granted the jurisdiction of the society shall be limited to the area so defined: R.S. 1948, c. 47, s. 21.

Evidence
with appli-
cation.

22. The signatures of the applicants to the application, and the facts stated in the application, shall be verified by statutory declaration, to the satisfaction of the Minister. R.S. 1948, c. 47, s. 22.

Incorpo-
ration.

23. Upon the Lieutenant-Governor in Council giving his approval of such application by Order in Council, the persons who have signed the application, and such others as may afterwards become members of the society, are a body politic and corporate by the name of "The Children's Aid Society of . ." It has all the powers conferred by law and by the provisions of this Act upon a society, and may, in addition, take and hold by gift, purchase, grant, devise, or bequest any property, real or personal, and may dispose of the same at pleasure, for the purposes of the society. R.S. 1948, c. 47, s. 23.

Exemption
to societies
already in
existence.

24. Every society in existence at the commencement of this Act shall be governed by the provisions of this Act; and shall, within such time as may be determined by the Minister, submit to the Minister a statement defining the boundaries of the area in which it desires to exercise jurisdiction; and unless the area is changed under section 25 the society shall not have jurisdiction except within the area defined in the statement. R.S. 1948, c. 47, s. 24.

*Provisions Applicable to Societies, whether Incorporated
before or after the Commencement of this Act*

Power of
society to
change
boundaries.

25. A society may at any time, subject to the written consent of the Minister, change the boundaries of the area in which it proposes to operate without affecting adversely thereby its articles of incorporation. R.S. 1948, c. 47, s. 25.

Board of
directors.

26. (1) The affairs of a society shall be managed by a board of not less than ten nor more than twenty-five directors.

Election of
directors.

(2) The directors of a society shall be elected by the members in a general meeting of the society assembled at such place within the Province, and at such times as the application or the by-laws of the directors prescribe. R.S. 1948, c. 47, s. 26.

Powers of
directors.

27. The directors of a society have full power in all things to administer the affairs of the society, and may make, or cause to be made, for the society any description of contract that the society may by law enter into, and may from time to time make by-laws not contrary to this Act for regulating the number of directors of the society, their term of service, the appointment, functions, duties, and removal of all agents, officers, and servants of the society, the security to be given by them to

the society, their remuneration, the time at which and place where the annual meetings of the society shall be held, the calling of meetings, regular and special, of the board of directors of the society, the quorum, the procedure in all things at such meetings, the qualifications and terms of admission of members, and the conduct in all other particulars of the affairs of the society; and may from time to time repeal, amend, or re-enact the same; but every such by-law, and every repeal, amendment, or re-enactment thereof, unless in the meantime confirmed at a general meeting of the society called for that purpose, has force only until the next annual meeting of the society, unless confirmed at such annual meetings; and no by-law, and no repeal, amendment, or re-enactment of any by-law, has any force or effect until it is approved by the Lieutenant-Governor in Council. R.S. 1948, c. 47, s. 27.

Right of
Superin-
tendent
to attend
meetings.

28. A society shall mail to the Superintendent a copy of every notice for the calling of any annual meeting or special meeting of the society or for any meeting of the board of directors; and further, the Superintendent shall have the right to attend at and take part in the proceedings of any of the meetings aforesaid, but shall not have any right of voting thereat. R.S. 1948, c. 47, s. 28.

Power to Enter Buildings

Power
to enter
building.

29. Where there is reason to believe that any child is in need of protection, within the meaning of section 7, in any house or building, or that any child who is an absconding ward of the Superintendent or of any society is being harboured in any house or building, then, upon any complaint thereof being made upon oath by the Superintendent or by any officer of the society, or by any constable or police officer, or by any Probation Officer, to any Judge, the Judge may issue a warrant to enter by day or night the house or building, and if necessary to use force for the purpose of effecting such entry, and to search for the child, and to bring the child before the Judge to be dealt with in the manner provided by section 8; but if the child is an absconding ward of the society or the Superintendent, it is sufficient for the Judge, instead of dealing with the case in the manner provided by section 8, to order delivery of the child into the safe custody of the society to which the child was previously committed. R.S. 1948, c. 47, s. 29.

Penalties

Penalty for
interfering
with care
of children.

30. Any person who

- (a) induces or attempts to induce any child under twenty-one years of age to leave a foster home, shelter, or temporary home in which he was placed by a children's aid society or by the Superintendent; or
- (b) detains or knowingly harbours an absconding ward of any children's aid society or of the Superintendent

is guilty of an offence under this Act and liable, on summary conviction, to a fine not exceeding one hundred dollars, or to imprisonment for a period not exceeding one year, or to both fine and imprisonment. R.S. 1948, c. 47, s. 30.

Penalty for
ill-treating
children.

31. Any person who, having the care, custody, control, or charge of a child under the age of twenty-one years, ill-treats, neglects, deserts, or abandons or exposes such child, or causes or procures such child to be ill-treated, neglected, deserted, abandoned, or exposed, is liable, on summary conviction, to a fine not exceeding one hundred dollars, or to imprisonment for a period not exceeding one year, or to both fine and imprisonment. R.S. 1948, c. 47, s. 31.

Maintenance

Maintenance
expenses of
children com-
mitted to a
society.

32. (1) When a Judge commits any child to the custody or control of any children's aid society, he shall at the same time, or subsequently, upon application of the society, make an order for the payment by the local authority of the area to which the child belongs of a reasonable sum, not being less than four dollars per week, to cover the costs incurred by the society in maintaining and supervising the child in any temporary home or shelter or in any foster home where children are not cared for without compensation, in which the child may be placed by the society. The practice of the placing of children with the lowest bidder is prohibited.

Basis for
determining
reasonable
cost.

(2) Before any order for payment is made under subsection (1), the society shall furnish the Judge with a statement showing the average per diem cost of maintaining and supervising the children who were in its care for the immediately preceding fiscal year of the society, as confirmed by the society's auditors and the Superintendent, and it shall be presumed in the absence of evidence to the contrary that such average cost represents the reasonable cost of maintaining and supervising a child in the society's care, and the Judge shall make his order accordingly.

Basis for
determining
where child
belongs.

(3) For the purposes of this Act, any child shall be deemed to belong to the local area in which the child has last established residence in accordance with the *Residence and Responsibility Act*; but in the absence of evidence to the contrary, residence in the local area in which the child was taken into custody shall be presumed.

Right of local
authority
to recover
expenses
from another
local
authority.

(4) A local authority having made any payment under this section for the maintenance and supervision of a child in respect of whom some other local authority is liable to make such payment is entitled to recover the amount so paid from the other local authority.

Right of local
authority to
recover ex-
penses from
parents of
child.

(5) Every local authority incurring expenditure hereunder may recover the amount of the expenditure from the parents of the child in respect of whom the expenditure is made.

Inclusion of
maintenance
order and
overriding

(6) The order of committal of any child under this Act in addition to directing payment, by the local authority to which the child belongs,

order against
parent in
committal
order.

to any society to whose custody or control the child is committed, of a reasonable sum, as defined in subsections (1) and (2), to cover the cost of maintaining and supervising the child, may also direct payment to the local area, by the parent or guardian of the child, of any amount not more than the amount so directed to be paid by the local authority.

Subsequent
application
for variation
of order.

(7) At any time after an order for payment is made under subsection (1), the local authority or the children's aid society or the Superintendent may apply to the Judge for such variation of the order already made as the circumstances justify, including (where the child has been delivered to the Superintendent or a children's aid society under subsection (12) or subsection (13) of section 8) the substitution of the children's aid society or Superintendent, as the case may be, for the payee named in the order; and any parent or guardian may also make application to the Judge in like manner for an order varying the amount payable by him under any order or revoking the order, or varying or suspending in whole or in part the operation of the same so far as it applies to the parent or guardian.

Enforcing
order.

(8) Any order made under this section may be enforced in the same manner as an order made by a Judge of the Supreme Court.

Time of com-
mencement
and duration
of payments.

(9) Where an order is made under this section for any payment for the maintenance and supervision of a child, the period for which the payment shall be made shall commence at the time the child was apprehended, irrespective of the date of the order of committal of the child or the date of the order for the payment, and shall continue so long as the child remains in the care of the society and an expense to the society up to but not beyond the day when the child reaches the age of eighteen years; except that the society may, on giving ten clear days' notice to the local authority responsible for payment of maintenance under the order, apply to the Judge for an order extending the period of payment beyond that time, and if the Judge finds that there are circumstances justifying the extension of the period for which payment is to be made, the Judge shall make an order accordingly.

(10) Notwithstanding anything contained in this Act, where an order has been made for payment of maintenance by a local district municipality or village municipality, the maintenance shall be paid out of the Consolidated Revenue Fund.

(11) Notwithstanding any of the provisions of this Act, where an order has been made for the payment of maintenance by a municipality under subsection (1) of this section or under section 40, the municipality shall be reimbursed to the extent of not less than eighty-five per centum of the cost of maintenance out of funds appropriated by the Legislature for the purpose or, in the absence of an appropriation, out of the Consolidated Revenue Fund.

(12) Where a municipality recovers expenses from the parents of the child in respect of whom the expenditure is made, it is liable for repayment to Her Majesty in the same proportion of the expenses recovered

as the proportion paid by the Province under subsection (11). R.S. 1948, c. 47, s. 32; 1958, c. 9, s. 4.

Payments of
maintenance
by Province.

33. Where the legal residence of the child is found by the Judge, or, in the case of appeal, by the Court to which appeal is taken, to be area that is not a municipality, the sum provided in the order is payable out of the Consolidated Revenue Fund towards maintaining and supervising the child, the sum to be payable from the time the child was apprehended, irrespective of the date of the order of committal; but no payment shall be made under this section if the society is not conducted in accordance with the provisions of this Act. R.S. 1948, c. 47, s. 33.

Maintenance
expenses of
children
committed to
Superin-
tendent.

34. (1) In the case of a child committed to the care of the Superintendent instead of to a children's aid society by the order of a Judge, the provisions of section 32 apply, mutatis mutandis, but instead of furnishing the Judge with a statement showing the average per diem cost of maintaining and supervising the children who were in the Superintendent's care for the immediately preceding fiscal year, the Superintendent shall furnish the Judge with a statement showing the average per diem cost for each children's aid society operating in the Province, as confirmed by the society's auditors in each case; and the Judge in making the order for payment by a municipality to the Superintendent shall direct payment of an amount not less than the lowest and not greater than the highest average per diem cost of any such society.

Payments for
children com-
mitted to
Superin-
tendent.

(2) In the case of a child committed to the care of the Superintendent by the order of a Judge, the Superintendent may pay a reasonable sum for the maintenance and supervision of the child to any person to whom the Superintendent has entrusted the care of the child, or to any society to which the Superintendent has delivered the child and by which the child is maintained. R.S. 1948, c. 47, s. 34.

Custody and Trial

Custody of
children
pending
trial.

35. No child apparently under the age of eighteen years who is held or brought before a Judge for examination under any of the provisions of this Part shall be placed, allowed to remain, or confined with any adult prisoner in any lockup or police cell used for ordinary criminals or persons charged with crime, nor, save as hereinafter mentioned, shall any such child be tried or have his case disposed of in any Police Court room ordinarily used as such. R.S. 1948, c. 47, s. 35.

Duty of local
authorities
and of Judge
as to place
of detention
and trial.

36. It is the duty of local authorities to make provision for the separate custody and detention of such children before their trial or examination, whether by arrangement with some person or society who may be willing to undertake the responsibility of such temporary custody or detention on such terms as may be agreed upon, or by providing suitable premises entirely distinct and separated from the

ordinary lockups or police cells; and it is the duty of the Judge to try all such children or examine into their cases and dispose thereof where practicable, in premises other than the ordinary Police Court premises, or, where this is not practicable, in the private office of the Judge, if he has one, or in some other room in the municipal buildings, or if this is not practicable, then in the ordinary Police Court room, but only in such last-mentioned case when an interval of two hours has elapsed after the other trials or examinations for the day have been disposed of. R.S. 1948, c. 47, s. 36.

Evidence of children.

37. (1) Where in any proceeding against any person for an offence under this Act the child in respect of whom the offence is charged to have been committed, or any other child of tender years who is tendered as a witness, does not, in the opinion of the Judge, understand the nature of an oath, the evidence of such child may be received, though not given upon oath, if in the opinion of the Judge such child is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth.

Corroboration.

(2) No person is liable to be convicted of an offence unless the testimony admitted by virtue of this section and given on behalf of the prosecution is corroborated by some other material evidence implicating the accused. R.S. 1948, c. 47, s. 37.

Presumption of age.

38. Where a person is charged with an offence under this Act in respect of a child who is alleged to be under any specified age, and the child appears to the Judge to be under that age, the child shall, for the purposes of this Act, be deemed to be under that age unless the contrary is proved. R.S. 1948, c. 47, s. 38.

Miscellaneous

Provision of copy of order for maintenance to local authority responsible.

39. Upon an order being made by a Judge directing payment by any local authority to the Superintendent or to a children's aid society of the cost of maintaining and supervising a child committed to the care of the Superintendent or of the society, a copy of the order upon which the child has been committed shall be forwarded by registered letter by the clerk of the Court to the clerk of the local authority chargeable under the order with the maintenance of the child. R.S. 1948, c. 47, s. 39.

Appeal against order for maintenance.

40. (1) When any order has been made under subsection (1) of section 32 or under subsection (1) of section 34 by any Judge not being a Judge of the Supreme Court or a Judge of a County Court, the person who made the application, or any local authority made liable for payment or maintenance by the order, or the Superintendent, may appeal from the order in the manner and within the times prescribed by the *Summary Convictions Act* for the appeal of convictions; and the Court to which such appeal is taken shall thereupon affirm or reverse such order or make such other order as to the Court seems proper.

Where any Judge, not being a Judge of the Supreme Court or a Judge of the County Court, refuses to make an order under subsection (1) of section 32 or under subsection (1) of section 34, the person who made the application has a similar right of appeal.

County
Court
juris-
diction.

(2) If the appeal is taken to a County Court it shall be to the County Court having jurisdiction in the area where the order referred to in subsection (1) was made.

Further
order on
appeal.

(3) Whenever, on such appeal, the Court reverses such an order for payment, it shall, at the same time, make a further order directing payment by the local area that is properly responsible under subsections (1) and (3) of section 32 for the payment of maintenance referred to in the order appealed; but no such further order shall be made without first giving ten days' notice to every local authority that may be affected by such further order. R.S. 1948, c. 47, s. 40; 1958, c. 9, s. 5.

If possible,
Judge to
commit child
to custody
of person or
society of
religious
persuasion
of child.

41. Notwithstanding anything in this Act contained, the Judge, in determining the person or society to whom the child is to be committed, shall endeavour to ascertain the religious persuasion to which the child belongs, and shall, if possible, select a person or society of the same religious persuasion, and such religious persuasion shall be specified in the order; and in any case where the child has been placed pursuant to such order with a person or society not of the same religious persuasion as that to which the child belongs, the Judge shall, on the application of any person in that behalf, and on its appearing that a fit person or society of the same religious persuasion as the child is willing to undertake the charge, make an order to secure his being placed with such person or society. R.S. 1948, c. 47, s. 41.

Right to inflict
punishment
not affected.

42. Nothing in this Act contained shall be construed to take away or affect the right of any parent, teacher, or other person having the lawful control or charge of a child to administer punishment to such child as if this Act had not been passed. R.S. 1948, c. 47, s. 42.

Immigrant Children

Guardianship
of overseas
children.

43. (1) For the purpose of assuring adequate care and protection to any child in the Province who has come from the United Kingdom of Great Britain and Northern Ireland, or from Europe, since the first day of September, 1939, and for whom there is no legal parent or guardian in the Province, the Superintendent is empowered to act in all matters as parent or guardian of the child during the period of his stay in the Province; and, without limiting the generality of the foregoing, the Superintendent is authorized to give consent to medical care, hospitalization, and surgical operations, where such consent is necessary, as well as to remove with the consent of the Director of Immigration for Canada any such child from any home when, in the Superintendent's opinion, it is in the best interests of the child so to

do and to place it in any approved foster home; but the powers conferred upon the Superintendent by this section shall not be used in any of the following ways:—

- (a) For the purpose of giving consent to the marriage or adoption of the child;
- (b) For the purpose of preventing the return of the child to its parents when the parents request it;
- (c) For the purpose of interfering in any way with any property, real or personal, belonging to the child.

Termination
of such
guardian-
ship.

(2) The Lieutenant-Governor in Council may in respect of any child by Order in Council withdraw the guardianship powers conferred upon the Superintendent by subsection (1). R.S. 1948, c. 47, s. 43.

Interpre-
tation.

44. In the subsequent sections of this Act, unless the context otherwise requires, the expression

“agent” includes the chief or other officers of an organization, and also any person who undertakes for reward or otherwise to place immigrant children in the Province;

“immigrant child” means a child who has been brought into the Province by any organization or agent for the purpose of settlement in this Province, and who does not reside in the home of its parents or step-parents within the Province;

“organization” means any person, or group of persons, within the Province, whether incorporated or unincorporated, which has for one of its purposes the placing of immigrant children in the Province, and includes a branch or agency of any such organization. R.S. 1948, c. 47, s. 44.

Authority for
organization
to place
immigrant
children.

45. (1) An organization or agent desiring to carry on the work of placing immigrant children in the Province, prior to placing in the Province any immigrant child shall secure from the Lieutenant-Governor in Council authority by Order in Council for such organization or agent to carry on such work, and shall deposit with the Minister the sum of five hundred dollars, or furnish satisfactory security for that amount.

Revocation
of such
authority.

(2) Such authority may be revoked by the Lieutenant-Governor in Council; and such sum or a portion thereof, on the retirement of the organization or agent from such work or on the dissolution of the organization, may be returned. R.S. 1948, c. 47, s. 46.

Records by
organization
as to im-
migrant
children.

46. Every organization or agent shall keep a full and complete record of all immigrant children brought into the Province by it. The record shall contain the name of every child, the name of its parents, its place and date of birth, the name of the person, society, or corporation who last had charge of the child immediately before it became an immigrant child, the name of the ship on which the child was brought to Canada, and the date and port of entry. R.S. 1948, c. 47, s. 46.

Inspection and supervision of organizations.

47. Every organization or agent is as to its operations in the Province subject to the inspection and supervision of the Superintendent, and to such regulations as the Lieutenant-Governor in Council may make from time to time, for the effective supervision of the operations of such organizations or agents with respect to immigrant children. R.S. 1948, c. 47, s. 47.

Persons other than parents receiving immigrant child to notify Superintendent.

48. Every person who, in the Province, not being a parent or step-parent of such child, takes into his home any immigrant child shall within ten days after the reception of such child into his home send by registered mail, addressed to the Superintendent, a notice in writing stating the name of the child, the date of its reception, and the place from which the child came. R.S. 1948, c. 47, s. 48.

Responsibility of organization for maintenance of immigrant child.

49. Every organization or agent is responsible for the maintenance of any immigrant child placed or caused to be placed in the Province by such organization or agent, and for the cost involved in placing such child in a foster home; and, if the person with whom the child has been placed is unable or unwilling to retain the custody or control of the child, such organization or agent is responsible for the maintenance of the child until he is again placed as aforesaid, and for the cost involved in so replacing such child. R.S. 1948, c. 47, s. 49.

Power of organization to place immigrant children in foster homes, etc.

50. An organization or agent may place any immigrant child in a foster home or situation on a written agreement, during minority, or for any less period, in the discretion of the organization or agent; withstanding any provision contained in any such contract the organization has the right to withdraw the child from any person having the custody of the child when in the opinion of the organization or agent the welfare of the child requires it. R.S. 1948, c. 47, s. 50.

And powers of Superintendent in reference to child so placed.

51. Every organization or agent who places any immigrant child pursuant to section 50 shall make such reports concerning the child as may be required by any regulations made by the Lieutenant-Governor in Council in that behalf. When in the opinion of the Superintendent the welfare of the child requires it, the Superintendent may require such organization or agent to bring the child to such place or institution within the Province for examination and observation as the Superintendent may require; and the Superintendent is empowered to make such arrangements for the disposition of the child as to him seem proper. R.S. 1948, c. 47, s. 51.

Duty of person receiving a child from an organization on his discontinuing agreement.

52. If any person who has received from an organization or agent an immigrant child is unable or unwilling to carry out the agreement entered into by him with the organization or agent, he shall, at his own expense, return the child safely to the organization or agent; and any person who abandons a child so received, or refuses to maintain the child, and neglects or refuses to return him to the organization or agent

And penalty for breach. as aforesaid, is on summary conviction, liable to a fine of not more than one hundred dollars and costs and not less than ten dollars and costs, and in default of payment to imprisonment for any term not exceeding three months. R.S. 1948, c. 47, s. 52.

Immigrant child who has been placed out and returned not to be placed out again without consent of Superintendent. **53.** (1) When an immigrant child has been returned to the custody of the organization or agent after having been placed out, the Superintendent shall ascertain, as far as possible, the true cause of such return, and such child shall not again be placed with any person by the organization or agent without the knowledge and approval of the Superintendent.

Penalty. (2) Any organization or agent who contravenes the provisions of this section is guilty of an offence, punishable on summary conviction by a fine of not more than one hundred dollars and costs, and is further liable to the forfeiture of the authority held by it under this Act. R.S. 1948, c. 47, s. 53.

Duty of person who has received an immigrant child, on child deserting or being wrongfully taken out of his custody. **54.** Where a child who has been received by any person pursuant to any of the provisions of this Act deserts the home or employment of such person of his own accord, or is wrongfully taken from the custody of such person, with or without the consent of the child, before attaining the age of eighteen years, the person from whose home or employment the child has deserted or from whose custody the child has been taken shall immediately notify the Superintendent, and shall give all reasonable assistance in recovering the child, under penalty, in case of default, of not more than twenty dollars and costs and not less than five dollars and costs, to be recovered on summary conviction under the provisions of the *Summary Convictions Act*. R.S. 1948, c. 47, s. 54.

Penalty for breach.

Medical examination of immigrant child. **55.** The Superintendent may at any time require that any immigrant child be examined by one or more duly qualified medical practitioners as to its physical and mental condition. R.S. 1948, c. 47, s. 55.

Penalty for placing immigrant children without authority.

56. Any person who, without authority from the Lieutenant-Governor in Council, places or causes to be placed in this Province any immigrant child, not being his own child or a child of whom he is acting as guardian or one towards whom he stands in loco parentis, is, on summary conviction under the provisions of the *Summary Convictions Act*, liable to a fine of not more than two hundred dollars and costs and not less than twenty dollars and costs, and in default of payment to imprisonment for any term not exceeding three months. This section does not apply in the case of any person, not acting as an agent or on behalf of any organization, who is specially entrusted by the parents or guardian with the custody of the child for the purpose of bringing the child into the Province and delivering him to the custody of some person in the Province. R.S. 1948, c. 47, s. 56.

Penalty for placing immigrant child who is a mental defective, etc.

57. (1) Any person who knowingly places or causes to be placed in the Province any immigrant child who from defective intellect, or disease, or physical infirmity, or any other defect is unable to follow any trade or calling, or any immigrant child who is known to be delinquent, or who has been reared or has resided amongst habitual criminals, or any immigrant child whose parents have been mental defectives, habitual criminals, lunatics, or idiots, or feeble-minded, or defective, or confirmed paupers, or diseased, is, on summary conviction thereof before the Judge of the Juvenile Court, a Police Magistrate, or two or more Justices of the Peace, liable to a penalty of not more than two hundred dollars and costs and not less than twenty dollars and costs, and in default of payment to imprisonment for any term not exceeding three months.

Proceedings to be by direction of Superintendent and within one year from placement of child.

(2) No proceedings against any person under this section shall be taken unless directed by the Superintendent in writing, and no proceedings shall be taken after the expiration of one year from the date on which the child was placed in the Province as aforesaid. R.S. 1948, c. 47, s. 57.

Organization liable for maintenance of child placed by it who becomes public charge within one year of placement.

58. If any immigrant child who has been placed or caused to be placed in the Province by any organization or agent, or other person, shall within one year thereafter become a charge upon the funds of any municipality or upon the Province, or be dependent upon private charity, such organization or agent or other person shall, if so required by the Superintendent, pay to the municipality or the Province or to any person maintaining the child, as the case may be, the cost of maintenance of the child; and the amount so payable is a debt that may be recovered by suit brought by the corporation or person entitled to the same. R.S. 1948, c. 47, s. 58.

Complaints as to ill-treatment of immigrant children to be investigated.

59. If any person resident in the Province gives notice to the Superintendent that an immigrant child is being ill-treated or overworked, or is not being properly educated, or is being otherwise neglected, the Superintendent shall cause the complaint to be investigated, and shall take all necessary steps to protect the child from further ill-treatment or neglect. R.S. 1948, c. 47, s. 59.

Penalty for ill-treatment, etc., of immigrant child.

60. Any person with whom an immigrant child has been placed, who ill-treats or overworks or neglects to provide for the proper maintenance and education of such child is, upon summary conviction thereof before a Judge, liable to a fine not exceeding five hundred dollars and costs, or to imprisonment with or without hard labour for any term not exceeding six months, or to both fine and imprisonment. R.S. 1948, c. 47, s. 60.

Certificate of Superintendent as to age of immigrant child prima facie evidence.

61. A certificate in writing, signed by the Superintendent, stating the age of any person placed in this Province as an immigrant child under this Act, is, in any prosecution, action, or other proceedings instituted, brought, or taken under any Act of the Legislature of the Province on account of, or by, or against, or on behalf of any person so placed,

prima facie evidence as to the age of such person. R.S. 1948, c. 47, s. 61.

Application
of Act.

62. This Act is applicable, according to the circumstances of the case, to every child committed under the *Infants Act*. 1949, c. 8, s. 3.

SCHEDULE

PROTECTION OF CHILDREN ACT

(Section 21)

We, the undersigned, all being of the full age of twenty-one years, and being British subjects, and residents within the area specified in article 3 hereof, in the Province of British Columbia, do hereby make application for incorporation, as "The Children's Aid Society of _____," under the provisions of the *Protection of Children Act*, and hereby adopt the following articles of incorporation:—

1. The Society shall be known as "The Children's Aid Society of _____."

2. The business and objects of the Society shall be the protection of children from cruelty, the amelioration of family conditions that lead to neglect of children, the care and protection of children in need of protection, and the enforcement, by all lawful means, of the laws relating thereto.

3. The jurisdiction of the Society shall be limited to the area enclosed by the following territorial boundaries. [*Space for these boundaries to be set forth in detail.*]

4. The number of directors of the Society shall be _____.

5. The names, addresses, and occupations of the first directors of the Society who shall hold office until the first annual meeting of the Society are:—

6. The annual meetings of the Society shall be held at _____ on the day of _____ in each year, until changed by by-law of the Society.

In witness whereof we have hereunto severally subscribed our names this day of _____, in the year one thousand nine hundred and _____.

In the presence of—

R.S. 1948, c. 47, Sch.